

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEW MEXICO**

**ARTHUR FIRSTENBERG,**

**Plaintiff,**

**vs.**

**11-CV-08 JAP/WDS**

**CITY OF SANTA FE, NEW MEXICO and  
AT&T MOBILITY SERVICES, LLC.**

**Defendants.**

**MEMORANDUM OPINION AND ORDER**  
**DENYING PLAINTIFF'S SECOND MOTION TO IMPOSE SANCTIONS (Doc. No. 37)**

On April 4, 2011, Plaintiff filed Plaintiff's Second Motion To Impose Sanctions On the City Of Santa Fe For Violations Of Rule 11(b) (Doc. No. 37) (Second Motion for Sanctions). The Second Motion for Sanctions asks the Court to impose sanctions on the City for the assertions in the City's Reply In Support Of Motion to Dismiss By Respondent City of Santa Fe (Doc. No. 27) filed February 28, 2011 (Reply).

In the Second Motion for Sanctions, Plaintiff asserts that the Reply contains several factual allegations that directly contradict the factual allegations in the Petition. The arguments asserted in Plaintiff's Second Motion for Sanctions are the types of arguments that support Plaintiff's Response to the City's Motion to Dismiss (Doc. No. 21), and the Court will consider them in its ruling on the City's Motion to Dismiss (Doc. No. 16). In addition, as with the Motion for Sanctions filed on March 15, 2011 (Doc. No. 33), Plaintiff has failed to follow the service and filing requirements of Rule 11(c)(2). Plaintiff filed the Second Motion for Sanctions on April 4, 2011, which is less than 21 days after April 1, 2011, the date on which Plaintiff served the City with the Second Motion for Sanctions. *See* Certificate of Service (Doc. No. 38). *See also*

Fed. R. Civ. P. 11(c)(2) (stating that a motion for sanctions must be served 21 days before it is filed but only if the party served with a motion for sanctions does not withdraw the offending document or pleading). For these reasons, the Court will deny the Second Motion for Sanctions.

IT IS ORDERED that the Plaintiff's Second Motion To Impose Sanctions On the City Of Santa Fe For Violations Of Rule 11(b) (Doc. No. 37) is denied.

  
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SENIOR UNITED STATES DISTRICT JUDGE